

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

JUAN AVILA-ARREOLA,

Plaintiff,

v.

KING ORCHARDS, INC.,

Defendant.

Case No. 3:20-cv-103-SB

ORDER

Michael H. Simon, District Judge.

United States Magistrate Judge Stacie F. Beckerman issued Findings and Recommendation in this case on July 15, 2021. Judge Beckerman recommends that this Court deny Defendant's motion for summary judgment and grant Plaintiff's motion for partial summary judgment.

Under the Federal Magistrates Act (Act), the Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). If a party files an objection to a magistrate judge's findings and recommendations, "the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." *Id.*; Fed. R. Civ. P. 72(b)(3).

For those portions of a magistrate judge's findings and recommendations to which neither party has objected, the Act does not prescribe any standard of review. *See Thomas v. Arn*, 474 U.S. 140, 152 (1985) ("There is no indication that Congress, in enacting [the Act], intended to require a district judge to review a magistrate's report to which no objections are filed."); *United States. v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc) (holding that the court must review *de novo* magistrate judge's findings and recommendations if objection is made, "but not otherwise"). Although in the absence of objections no review is required, the Magistrates Act "does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard." *Thomas*, 474 U.S. at 154. Indeed, the Advisory Committee Notes to Fed. R. Civ. P. 72(b) recommend that "[w]hen no timely objection is filed," the Court review the magistrate judge's recommendations for "clear error on the face of the record."

Defendant filed a timely objection, essentially objecting to the entirety of the Findings and Recommendation. Defendant argues that it is entitled to summary judgment, or at least that there are genuine issues of fact precluding summary judgment on Plaintiff's motion for partial summary judgment.

Defendant argues that the Findings and Recommendation erroneously treats the undisputed fact that Defendant required a doctor's note and the undisputed fact that Plaintiff did not end up working for Defendant as a single event and mistakenly finds that Plaintiff has shown a cognizable injury. Defendant, however, ignores the undisputed (and logical) link between its pre-hire requirement that Plaintiff provide a doctor's note and Plaintiff not working for Defendant, which is Defendant's stated refusal to hire Plaintiff without a doctor's note. Defendant also references Plaintiff as "returning" to work for Defendant and that Plaintiff put his knee injury into dispute during his "relevant employment." It is undisputed, however, that

Defendant was not Plaintiff's *employer* during the purported "relevant" time. Instead, Plaintiff worked for a separate and distinct business entity and thus was not "returning" to work for Defendant. Defendant also argues that Plaintiff has failed to present evidence of damages. Plaintiff, however, has shown sufficient harm for standing, and Plaintiff's motion for partial summary judgment and the Findings and Recommendation relating to that motion involve only the question of liability, not damages.

The Court has reviewed *de novo* Judge Beckerman's Findings and Recommendation, as well as Defendant's objections and Plaintiff's response. The Court agrees with Judge Beckerman's reasoning and adopts the Findings and Recommendation, ECF 49. The Court DENIES Defendant's Motion for Summary Judgment (ECF 35) and GRANTS Plaintiff's Motion for Partial Summary Judgment (ECF 36).

IT IS SO ORDERED.

DATED this 18th day of August, 2021.

/s/ Michael H. Simon
Michael H. Simon
United States District Judge